

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

L.C. CUNNINGHAM,
Plaintiff,
v.
J. PERDROZA, et al.,
Defendants.

Case No. 1:23-cv-00041-ADA-EPG (PC)
ORDER DENYING PLAINTIFF’S MOTION
FOR LEAVE TO FILE AN AMENDED
COMPLAINT WITHOUT PREJUDICE
(ECF No. 37)

Plaintiff L.C. Cunningham is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action. On September 21, 2023, Plaintiff file a motion for leave to file an amended complaint, stating that he wants to add claims against a new defendant. (ECF No. 37).

However, Plaintiff did not submit a proposed amended complaint with his motion as required by the Court’s Local Rules. *See* Local Rule 137(c) (“If filing a document requires leave of court, such as an amended complaint after the time to amend as a matter of course has expired, counsel shall attach the document proposed to be filed as an exhibit to moving papers seeking such leave. . . . If the Court grants the motion, counsel shall file and serve the document in accordance with these Rules”); *see also* Local Rule 183(a) (“All obligations placed on ‘counsel’ by these Rules apply to individuals appearing in propria persona.”).

The Court notes that Plaintiff must also comply with Local Rule 220: “Unless prior approval to the contrary is obtained from the Court, every pleading to which an amendment or supplement is permitted as a matter of right or has been allowed by court order shall be retyped

1 and filed so that it is complete in itself without reference to the prior or superseded pleading.
2 No pleading shall be deemed amended or supplemented until this Rule has been complied
3 with.”

4 Additionally, the Court is concerned that Plaintiff is seeking to add new claims against a
5 new defendant that would not be proper in this lawsuit. Federal Rule of Civil Procedure
6 20(a)(2)(A)-(B) provides that “[p]ersons . . . may be joined in one action as defendants if: (A)
7 any right to relief is asserted against them jointly, severally, or in the alternative with respect to
8 or arising out of the same transaction, occurrence, or series of transactions or occurrences; and
9 (B) any question of law or fact common to all defendants will arise in the action.”

10 Here, Plaintiff appears to seek to add a claim against Officer A. Licea based on
11 allegations of retaliation for filing this lawsuit. Officer A. Licea is not currently a defendant in
12 this case. Moreover, the alleged retaliation is not based on any facts at issue in the underlying
13 claim. Without deciding the matter, the proposed amendment may be improper.

14 Plaintiff may choose to file a separate lawsuit if he believes that a different defendant
15 violated his rights under different circumstances, including by retaliating against Plaintiff for
16 litigation in this case.

17 Accordingly, IT IS ORDERED that Plaintiff’s motion for leave to file an amended
18 complaint (ECF No. 37) is denied without prejudice.

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20 IT IS SO ORDERED.

21 Dated: September 26, 2023

22 /s/ Eric P. Grogan
23 UNITED STATES MAGISTRATE JUDGE
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